

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

IN RE:

RIGHT OF WAY MAINTENANCE  
COMPANY

*Debtor.*

RIGHT OF WAY MAINTENANCE  
COMPANY

*Plaintiff,*

V.

CAMBRIDGE MANAGEMENT GROUP,  
LLC, BANDAS LAW FIRM, P.C.,  
CHRISTOPHER A. BANDAS, ROBERT C.  
CURFISS, JACKSON WALKER, L.L.P.,  
MOULTON & MEYER, L.L.P., JEFFREY  
D. MEYER, PATRICIA A.  
SHACKELFORD, P.C., PATRICIA A.  
SHACKELFORD, GYRO-TRAC, INC.  
AND GYRO-TRAC(USA), INC.

*Defendants.*

GYRO-TRAC, INC. AND GYRO-TRAC (USA), INC.'S ORIGINAL ANSWER

Gyro-Trac, Inc. and Gyro-Trac (U.S.A.), Inc. (collectively referred to as “Gyro-Trac”) file their Original Answer as follows:

## ADMISSIONS & DENIALS

1. Gyro-Trac denies that ROWMEC's claims make this case a core proceeding but admits the remaining allegations of Paragraph 1.

2. Gyro-Trac admits the allegations of Paragraph 2.
3. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 3.
4. Gyro-Trac admits the allegations of Paragraph 4.
5. Gyro-Trac admits the allegations of Paragraph 5.
6. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 6.
7. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 7.
8. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 8.
9. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 9.
10. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 10.
11. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 11.
12. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 12.
13. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 13.
14. Gyro-Trac admits the allegations in Paragraph 14.

15. Gyro-Trac admits that the “2003 Settlement Agreement” settled the original lawsuit but is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 15.

16. Gyro-Trac admits the allegations contained in Paragraph 16.

17. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 17.

18. Gyro-Trac admits the allegations in Paragraph 18.

19. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 19.

20. Gyro-Trac admits the allegations in Paragraph 20.

21. Gyro-Trac admits the allegations in Paragraph 21.

22. Gyro-Trac admits the allegations in Paragraph 22.

23. Gyro-Trac admits that the Memorandum and Recommendation was adopted by the district court but is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 23.

24. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 24.

25. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 25.

26. Gyro-Trac admits the allegations in Paragraph 26.

27. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations that Bandas and Curfiss negotiated and documented the 2003 Settlement Agreement but admits the remaining allegations of Paragraph 27.

28. Gyro-Trac admits the allegations in Paragraph 28.

29. Gyro-Trac admits the allegations in Paragraph 29.

30. Gyro-Trac admits the allegations in Paragraph 30.

31. Gyro-Trac admits the allegations in Paragraph 31.

32. Gyro-Trac admits the allegations in Paragraph 32.

33. Gyro-Trac is without knowledge or information sufficient to form a belief as to whether ROWMEC or its principals were advised of the “true reasons” but admits the remaining allegations of Paragraph 33.

34. Gyro-Trac admits the allegations in Paragraph 34.

35. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 35.

36. Gyro-Trac disagrees with the jury’s findings but admits the allegations of Paragraph 36.

37. Gyro-Trac admits the allegations in Paragraph 37.

38. Gyro-Trac admits the allegations in Paragraph 38.

39. Gyro-Trac admits the allegations in Paragraph 39.

40. Gyro-Trac admits the allegations in Paragraph 40.

41. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 41.

42. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 42.

43. Gyro-Trac admits the allegations in Paragraph 43.

44. Gyro-Trac admits the allegations in Paragraph 44.

45. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 45.

46. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 46.

47. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 47.

48. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 48.

49. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 49.

50. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 50.

51. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 51.

52. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 52.

53. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 53.

54. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 54.

55. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 55.

56. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 56.

57. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 57.

58. To the extent that Paragraph 58 reasserts allegations, Gyro-Trac is without knowledge or information sufficient to form a belief, admits, or denies them as indicated in this pleading.

59. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 59.

60. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 60.

61. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 61.

62. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 62.

63. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 63.

64. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 64.

65. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 65.

66. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 66.

67. Gyro-Trac denies the allegations in Paragraph 67.

68. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 68.

69. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 69.

70. Gyro-Trac is without knowledge or information sufficient to form a belief as to what ROWMEC believes but denies the remaining allegations in Paragraph 70.

71. Gyro-Trac denies that ROWMEC is entitled to recover attorney fees as alleged in Paragraph 71.

72. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 72.

73. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 73.

74. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 74.

75. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 75.

76. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 76.

77. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 77.

78. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 78.

79. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 79.

80. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 80.

81. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 81.

82. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 82.

83. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 83.

84. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 84.

85. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 85.

86. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 86.

87. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 87.

88. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 88.

89. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 89.



90. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 90.

91. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 91.

92. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 92.

93. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 93.

94. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 94.

95. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 95.

96. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 96.

97. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 97.

98. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 98.

99. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 99.

100. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 100.

101. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 101.

102. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 102.

103. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 103.

104. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 104.

105. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 105.

106. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 106.

107. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 107.

108. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 108.

109. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 109.

110. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 110.

111. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 111.

112. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 112.

113. Gyro-Trac is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 113.

114. Gyro-Trac denies the allegations of Paragraph 114.

115. No admission or denial is required.

116. Gyro-Trac denies that ROWMEC is entitled to recover attorney fees from Gyro-Trac as alleged in Paragraph 116.

#### **AFFIRMATIVE DEFENSES**

117. Even if ROWMEC proves the allegations in its complaint, Gyro-Trac is not liable to ROWMEC because of waiver.

118. Even if ROWMEC proves the allegations in its complaint, Gyro-Trac is not liable to ROWMEC because of the statute of limitations.

119. Even if ROWMEC proves the allegations in its complaint, Gyro-Trac is not liable to ROWMEC because of *res judicata*.

120. Even if ROWMEC proves the allegations in its complaint, Gyro-Trac is not liable to ROWMEC because of collateral estoppel.

121. Even if ROWMEC proves the allegations in its complaint, Gyro-Trac is not liable to ROWMEC because of estoppel.

122. Even if ROWMEC proves the allegations in its complaint, Gyro-Trac is not liable to ROWMEC because of offset and credit.

123. Even if ROWMEC proves the allegations in its complaint, Gyro-Trac is not liable to ROWMEC because of prior material breach.

**JURY DEMAND**

124. Gyro-Trac demands a trial by jury in the district court and tenders the appropriate fee with the filing of this pleading. Furthermore, Gyro-Trac does not consent to the entry of final orders or judgment by the bankruptcy court.

**PRAYER**

FOR THESE REASONS, Defendants, Gyro-Trac, Inc. and Gyro-Trac (USA), Inc., ask that Plaintiff take nothing by its claims, and for all other relief, in law or in equity, to which they are justly entitled.

Respectfully submitted,

By: /s/ Jared G. LeBlanc by permission

James P. Keenan  
Texas Bar No. 1167850  
Federal Bar No. 1421

ATTORNEY-IN-CHARGE FOR DEFENDANTS  
GYRO-TRAC, INC. AND GYRO-TRAC (USA), INC.

OF COUNSEL:

Ann E. Webb  
Texas Bar No. 21017600  
Federal Bar No. 10243

Jared G. LeBlanc  
Texas Bar No. 24046279  
Federal Bar No. 575408

BUCK, KEENAN, GAGE, LITTLE & LINDLEY, L.L.P.  
5100 Bank of America Center  
700 Louisiana  
Houston, Texas 77002  
(713) 225-4500  
(713) 225-3719 fax

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Gyro-Trac, Inc. and Gyro-Trac (USA), Inc.'s Original Answer was forwarded to all counsel of record in this cause via the Clerk's CM/ECF System on August 19, 2009.

Leonard H Simon  
PENDERGRAFT & SIMON L.L.P.  
The Riviana Building  
2777 Allen Parkway, Ste. 800  
Houston, TX 77019  
lsimon@pendergraftsimon.com  
ATTORNEY-IN-CHARGE FOR ROWMEC

/s/ Jared G. LeBlanc  
Jared G. LeBlanc